

# IOWA PUBLIC INFORMATION BOARD[497]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” Iowa Administrative Code.

Items 1, 3 and 4 update references in Chapter 2. Item 2 clarifies that members of the Board serve in a quasi-judicial capacity during the complaint process and do not play a role in helping to resolve complaints. The amendment also clarifies that statements made during the informal resolution process may be disclosed to the Board, except that offers to settle a complaint may not be presented or used as evidence that a violation occurred.

Any interested person may make written suggestions or comments on the proposed amendments on or before July 14, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendments do not provide for a waiver as no obligation is being imposed on the public. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 23.6.

The following amendments are proposed.

ITEM 1. Amend rules **497—2.2(84GA,ch1115)** and **497—2.4(84GA,ch1115)**, parenthetical implementation statute, as follows:

**(84GA,ch1115 23)**

ITEM 2. Amend subrule 2.2(1) as follows:

**2.2(1) Referral to staff.** Upon acceptance of a complaint, the ~~board shall work with the executive director~~ board’s staff shall work with the complainant and the subject of the complaint toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~a. Statements inadmissible and confidential.~~—~~Statements made in the course of discussions undertaken to attempt to reach an informal, expeditious resolution cannot be admitted in subsequent contested case proceedings and shall not be related by any participating board member or staff to nonparticipating board members who may later be assigned to hear and decide the contested case~~ Offers to settle a complaint during the information resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~b.—Board member participation.~~—~~A board member who participates in discussions undertaken to attempt to reach an informal, expeditious resolution shall not participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board.~~

ITEM 3. Amend rule 497—2.3(84GA,ch1115) as follows:

**497—2.3(84GA,ch1115 23) Civil penalties and other appropriate remedies.** If it is determined after a contested case proceeding that a violation of statute or rule under the board’s jurisdiction has occurred,

the board may impose any of the remedies set out in ~~2012 Iowa Acts, chapter 1115, section 9(8) or section 13(3b).~~ Iowa Code section 23.6(8) or 23.10(3) “b.”

ITEM 4. Amend ~~497—~~**Chapter 2**, implementation sentence, as follows:

These rules are intended to implement ~~2012 Iowa Acts, chapter 1115~~ Iowa Code chapter 23.